

1 **SEC. 2. FCC REGULATIONS PROHIBITING CERTAIN PREF-**  
2 **ERENTIAL TREATMENT OR PRIORITIZATION**  
3 **OF INTERNET TRAFFIC.**

4 (a) IN GENERAL.—Not later than 90 days after the  
5 date of the enactment of this Act, the Commission shall  
6 promulgate regulations that—

7 (1) prohibit a broadband provider from entering  
8 into an agreement with an edge provider under  
9 which the broadband provider agrees, for consider-  
10 ation, in transmitting network traffic over the  
11 broadband Internet access service of an end user, to  
12 give preferential treatment or priority to the traffic  
13 of such edge provider over the traffic of other edge  
14 providers; and

15 (2) prohibit a broadband provider, in transmit-  
16 ting network traffic over the broadband Internet ac-  
17 cess service of an end user, from giving preferential  
18 treatment or priority to the traffic of content, appli-  
19 cations, services, or devices that are provided or op-  
20 erated by such broadband provider, or an affiliate of  
21 such broadband provider, over the traffic of other  
22 content, applications, services, or devices.

23 (b) RULES OF CONSTRUCTION.—

24 (1) CERTAIN TRAFFIC NOT AFFECTED.—Noth-  
25 ing in this section shall be construed as superseding  
26 any obligation or authorization a broadband provider

1 may have to address the needs of emergency commu-  
2 nications or law enforcement, public safety, or na-  
3 tional security authorities, consistent with or as per-  
4 mitted by applicable law, or as limiting the ability of  
5 the provider to do so.

6 (2) CLARIFICATION OF AUTHORITY.—Nothing  
7 in this section shall be construed as limiting the au-  
8 thority of the Commission under any other provision  
9 of law, including the authority to promulgate regula-  
10 tions prohibiting or limiting preferential treatment  
11 or prioritization of the traffic of an edge provider by  
12 a broadband provider under GN Docket No. 14–28  
13 (relating to the matter of protecting and promoting  
14 the open Internet).

15 (c) ENFORCEMENT.—For purposes of sections  
16 503(b) and 504 of the Communications Act of 1934 (47  
17 U.S.C. 503(b); 504), this section shall be considered to  
18 be a part of such Act. With respect to enforcement under  
19 this section only, the following modifications of such sec-  
20 tion 503(b) shall apply:

21 (1) Paragraph (5) shall not apply.

22 (2) Paragraph (6) shall be applied by sub-  
23 stituting the following: “No forfeiture penalty shall  
24 be determined or imposed against any person under  
25 this subsection if the violation charged occurred

1 more than 3 years prior to the date of issuance of  
2 the required notice or notice of apparent liability.”.

3 (d) DEFINITIONS.—In this section:

4 (1) AFFILIATE.—The term “affiliate” has the  
5 meaning given such term in section 3 of the Commu-  
6 nications Act of 1934 (47 U.S.C. 153).

7 (2) BROADBAND INTERNET ACCESS SERVICE.—  
8 The term “broadband Internet access service” has  
9 the meaning given such term in section 8.11 of title  
10 47, Code of Federal Regulations.

11 (3) BROADBAND PROVIDER.—The term  
12 “broadband provider” means a provider of  
13 broadband Internet access service.

14 (4) COMMISSION.—The term “Commission”  
15 means the Federal Communications Commission.

16 (5) EDGE PROVIDER.—The term “edge pro-  
17 vider” means an individual, institution, or other en-  
18 tity that provides—

19 (A) any content, application, or service  
20 over the Internet; or

21 (B) a device used for accessing any con-  
22 tent, application, or service over the Internet.

- 1           (6) END USER.—The term “end user” means  
2           an individual, institution, or other entity that uses a  
3           broadband Internet access service.

○

## Item 8



# United States Senate

WASHINGTON, DC 20510

July 15, 2014

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12th St. SW  
Washington, DC 20554

Dear Chairman Wheeler:

An open Internet has become the world's most successful platform for innovation, job-creation and entrepreneurialism. An open Internet enables freedom of expression and the sharing of ideas around the world. An open Internet is driving economic growth throughout the United States.

Yet, the vitality and nondiscriminatory nature of this platform is at stake today. We must take steps to prevent broadband providers from creating Internet fast lanes for those who can pay, leaving others stuck in traffic. We need to prohibit paid prioritization, which would leave start-ups and small businesses to suffer in a new Internet slow lane, harming our economy and job growth. Our goal must be to protect the openness of the Internet for future generations.

At issue today is *how* the FCC should use its authority to keep the Internet open for business. We remain concerned that the Commission's recent notice of proposed rulemaking suggests approaches that could undermine the openness of the Internet. Because the item tentatively concludes that Internet service providers would be allowed to offer faster delivery times for websites, applications or services that pay for it, the Commission's proposal could fundamentally alter the Internet as we know it.

Instead, the Commission should take this opportunity to put truly effective open Internet rules on the books, and do so using whatever authority best stops these discriminatory practices. We believe that authority already resides in Title II. By reclassifying the transmission component of broadband Internet access as a telecommunications service, with appropriate forbearance, the FCC could prevent online discrimination.

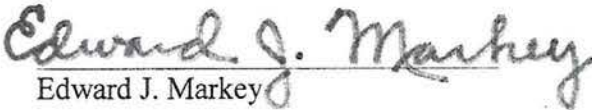
Broadband is a more advanced technology than phone service, but in the 21<sup>st</sup> century it performs the same essential function. Consumers and businesses cannot live without this vital connection to each other and to the world around them. Accordingly, it would be

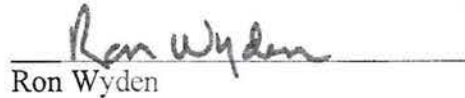
The Honorable Tom Wheeler  
July 15, 2014  
Page 2

appropriate for the FCC to reclassify broadband to reflect the vital role the Internet plays in carrying our most important information and our greatest ideas.

Thank you for your consideration and your work on this issue.

Sincerely,

  
Edward J. Markey

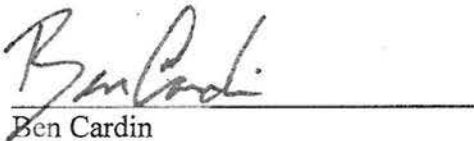
  
Ron Wyden

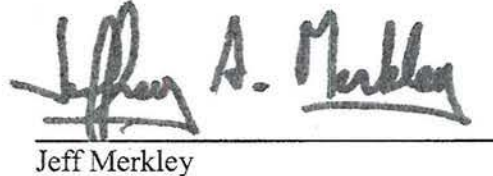
  
Bernie Sanders

  
Elizabeth Warren

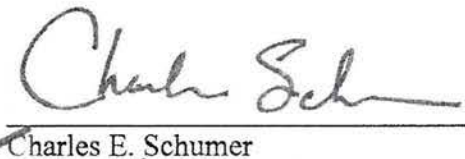
  
Al Franken

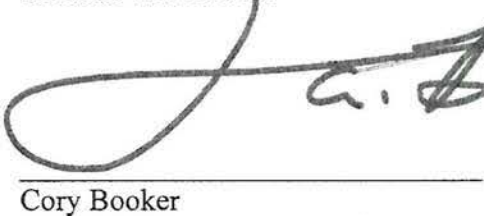
  
Richard Blumenthal

  
Ben Cardin

  
Jeff Merkley

  
Sheldon Whitehouse

  
Charles E. Schumer

  
Cory Booker

  
Kirsten Gillibrand

The Honorable Tom Wheeler  
July 15, 2014  
Page 3



Barbara Boxer